Appendix.

STATUTES

TITLE 18—UNITED STATES CODE

§ 88. (*Criminal Code, Section 37.*) *Conspiring to commit offense against United States.*—If two or more persons conspire either to commit any offense against the United States, or to defraud the United States in any manner or for any purpose, and one or more of such parties do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be fined not more than $10,000, or imprisoned not more than two years, or both.

TITLE 26—UNITED STATES CODE (INTERNAL REVENUE CODE)

SUBCHAPTER A.—OPIUM AND COCA LEAVES

§ 2550. *Tax*—(a) *Rate.*

There shall be levied, assessed, collected, and paid upon opium, coca leaves, any compound salt, derivative, or preparation thereof, produced in or imported into the United States, and sold, or removed for consumption or sale, an internal revenue tax at the rate of 1 cent per ounce, and any fraction of an ounce in a package shall be taxed as an ounce. The tax imposed by this subsection shall be in addition to any import duty imposed on the aforesaid drugs.

§ 2551. *Exemptions*—(a) *Preparations of limited narcotic content.*

The provisions of this subchapter and part V of subchapter A of chapter 27 shall not be construed to apply to the manufacture, sale, distribution, giving away, dispensing, or possession of preparations and remedies which do not contain more than two grains of opium, or more than one-

fourth of a grain of morphine, or more than one-eighth of a grain of heroin, or more than one grain of codeine, or any salt or derivative of any of them in one fluid ounce, or, if a solid or semisolid preparation, in one avoirdupois ounce; or to liniments, ointments, or other preparations which are prepared for external use, only, except liniments, ointments, and other preparations which contain cocaine or any of its salts or alpha or beta eucaine or any of their salts or any synthetic substitute for them: Provided, That such remedies and preparations are manufactured, sold, distributed, given away, dispensed, or possessed as medicines and not for the purpose of evading the intentions and provisions of this subchapter and said part V: Provided further, That any manufacturer, producer, compounder, or vendor (including dispensing physicians) of the preparations and remedies mentioned in this section lawfully entitled to manufacture, produce, compound, or vend such preparations and remedies shall keep a record of all sales, exchanges, or gifts of such preparations and remedies in such manner as the Secretary shall direct.

Such record shall be preserved for a period of two years in such a way as to be readily accessible to inspection by any officer, agent or employee of the Treasury Department duly authorized for that purpose, and the State, Territorial, District, municipal, and insular officers named in section 2556, and every such person so possessing or disposing of such preparations and remedies shall register as required in section 3221 and, if he is not paying a tax under section 3220, he shall pay a special tax of $1 for each year, or fractional part thereof, in which he is engaged in such occupation, to the collector of the district in which he carries on such occupation as provided in part V of subchapter A of chapter 27.

§ 2553. *Packages*—(a) *General requirement.* It shall be unlawful for any person to purchase, sell, dispense, or dis-

tribute any of the drugs mentioned in section 2550 (a) except in the original stamped package or from the original stamped package; and the absence of appropriate tax paid stamps for any of the aforesaid drugs shall be prima facie evidence of a violation of this subsection by the person in whose possession same may be found; and the possession of any original stamped package containing any of the aforesaid drugs by any persons who has not registered and paid special taxes as required by sections 3221 and 3220 shall be prima facie evidence of liability to such special tax.

§ 2554. *Order forms*—(a) *General requirement.* It shall be unlawful for any person to sell, barter, exchange, or give away any of the drugs mentioned in section 2550 (a) except in pursuance of a written order of the person to whom such article is sold, bartered, exchanged, or given, on a form to be issued in blank for that purpose by the Secretary.

(c) (2) *Prescriptions.*

To the sale, dispensing, or distribution of any of the drugs mentioned in section 2550(a) by a dealer to a consumer under and in pursuance of a written prescription issued by a physician, dentist, or veterinary surgeon registered under section 3221: *Provided, however,* That such prescription shall be dated as of the day on which signed and shall be signed by the physician, dentist, or veterinary surgeon who shall have issued the same: *And provided further,* That such dealer shall preserve such prescription for a period of two years from the day on which such prescription is filled in such a way as to be readily accessible to inspection by the officers, agents, employees, and officials mentioned in section 2556.

(d) *Preservation.* Every person who shall accept any order required under subsection (a), and in pursuance

thereof shall sell, barter, exchange, or give away any of the drugs mentioned in section 2550 (a), shall preserve such order for a period of two years in such a way as to be readily accessible to inspection by any officer, agent, or employee of the Treasury Department duly authorized for that purpose, and the State, Territorial, District, municipal, and insular officials named in section 2556.

(f) *Supply.* The Secretary shall cause suitable forms to be prepared for the purposes above mentioned, and shall cause the same to be distributed to collectors for sale by them to those persons who shall have registered and paid the special tax as required by sections 3221 and 3220 in their districts, respectively; * * *.

(g) *Unlawful use.* It shall be unlawful for any person to obtain by means of said order forms any of the aforesaid drugs for any purpose other than the use, sale, or distribution thereof by him in the conduct of a lawful business in said drugs or in the legitimate practice of his profession. § 2557.

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(b) *Violations in general.*

(1) Any person who violates or fails to comply with any of the requirements of this subchapter or part V of subchapter A of chapter 27, shall, on conviction, be fined not more than $2,000 or be imprisoned not more than five years, or both, in the discretion of the court.

(2) Any person required under this subchapter or section 3220 to pay any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information, for the purposes of the computation, assessment, or collection of any tax imposed by this subchapter or section 3220, who wilfully fails to pay

such tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than one year, or both, together with the costs of prosecution.

§ 3220. *Tax.*

On or before July 1 of each year every person who imports, manufactures, produces, compounds, sells, deals in, dispenses, or gives away opium or coca leaves, or any compound, manufacture, salt, derivative, or preparation thereof shall pay the special taxes hereinafter provided. Every person upon first engaging in any of such activities shall immediately pay the proportionate part of the tax for the period ending on the following June 30.

(a) *Importers, manufacturers, or producers.*

Importers, manufacturers, producers, or compounders, lawfully entitled to import, manufacture, produce, or compound any of the aforesaid drugs, $24 per annum;

(b) *Wholesale dealers.*

Wholesale dealers, lawfully entitled to sell and deal in any of the aforesaid drugs, $12 per annum;

(c) *Retail dealers.*

Retail dealers, lawfully entitled to sell and deal in any of the aforesaid drugs, $3 per annum;

(e) *Persons engaged in research, instruction, or analysis.*

Persons not registered as an importer, manufacturer, producer, or compounder and lawfully entitled to obtain

and use in a laboratory any of the aforesaid drugs for the purpose of research, instruction, or analysis shall pay $1 per annum, but such persons shall keep such special records relating to receipt, disposal, and stocks on hand of the aforesaid drugs as the Commissioner of Narcotics, with the approval of the Secretary, may by regulation require. Such special records shall be open at all times to the inspection of any duly authorized officer, employee, or agent of the Treasury Department.

(f) *Persons not otherwise taxed.*

For a tax of $1 a year on persons not otherwise taxed, dispensing preparations and remedies of limited narcotic content, see section 2551 (a).

§ 3221. *Registration*—(a) *Requirements.*

On or before July 1 of each year every person who engages in any of the activities enumerated in section 3220 shall register with the collector of the district his name or style, place of business and place or places where such business is to be carried on, and every person upon first engaging in any such activities shall immediately make like registration.

§ 3224. *Unlawful acts in case of failure to register and pay special tax*—(a) *Trafficking.*

It shall be unlawful for any person required to register under the provisions of this part or section 2551 (a) to import, manufacture, produce, compound, sell, deal in, dispense, distribute, administer, or give away any of the aforesaid drugs without having registered and paid the special tax as imposed by this part, or section 2551 (a).

(b) *Transportation.*

It shall be unlawful for any person who shall not have registered and paid the special tax as required by sections

3220 and 3221 to send, ship, carry, or deliver any of the aforesaid drugs from any State or Territory or the District of Columbia, * * *.

(c) *Possession.*

It shall be unlawful for any person who has not registered and paid the special tax as provided for by this part or section 2551 (a), to have in his possession or under his control any of the aforesaid drugs; and such possession or control shall be presumptive evidence of a violation of this subsection and subsection (a), and also a violation of the provisions of sections 3220 and 3221 * * *.

REGULATIONS

(Treasury Regulations No. 5 [1938], relating to the "Importation, Manufacture, Production, Compounding, Sale, Dealing in, Dispensing and Giving Away of Opium or Coca Leaves or any Compound, Manufacture, Salt, Derivative, or Preparation thereof.")

Art. 3. *Persons liable.*—Liability to payment of special tax and registration attaches to every person who imports, manufactures, produces, compounds, sells, deals in, dispenses, administers, or gives away narcotics. As to the tax rates applicable to a person engaged in one or more of the foregoing activities see Article 13.

Art. 15. *Manufacturers and compounders.*—As a general rule, every person who, by compounding, mixing, or other process of manufacture, produces narcotic drugs or preparations for sale or distribution is subject to tax as a manufacturer or compounder at $24 per annum in Class I, with the following exceptions as to retail dealers:

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Art. 25. *Partnerships.*—A partnership is subject to the same tax liability as an individual. Should either of the partners also individually engage in a taxable activity, he will incur additional liability with respect to such activity.

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Art. 62. *Written order required.*—Except as otherwise provided, order forms are required for all sales or other dispositions of narcotic drugs.

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Art. 90. *When not required.*—The use of order forms is not required:

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(5) For the sale, disposition, giving away, dispensing, or possession of preparations and remedies which do not contain more than 2 grains of opium, or more than one-fourth of a grain of morphine, or more than one-eighth of a grain of heroin, or more than 1 grain of codeine, or any salt or derivative of any of them in 1 fluid ounce, or, if a solid, or semisolid preparation, in 1 avoirdupois ounce or of liniments, ointments, or other preparations which are prepared for external use only, except liniments, ointments, and other preparations which contain cocaine, or any of its salts or alpha or beta eucaine or any of their salts or any synthetic substitute for them, provided that such remedies and preparations are manufactured, sold distributed, given away, dispensed, or possessed as medicines and not for the purpose of evading the intentions and provisions of this Act and that a record of dispositions is kept as required by Article 185.

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Art. 167. *Purpose of issue.*—A prescription, in order to be effective in legalizing the possession of unstamped narcotic drugs and eliminating the necessity for use of order forms, must be issued for legitimate medical purposes. The

responsibility for the proper prescribing and dispensing of narcotic drugs is upon the practitioner, but a corresponding liability rests with the druggist who fills the prescription. An order purporting to be a prescription issued to an addict or habitual user of narcotics, not in the course of professional treatment but for the purpose of providing the user with narcotics sufficient to keep him comfortable by maintaining his customary use, is not a prescription within the meaning and intent of the act; and the person filling such an order, as well as the person issuing it, may be charged with violation of the law.

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Art. 182. *Restrictions on dispositions.*—A preparation conforming to the standards set out in Article 181 is exempt from stamp tax and the requirements pertaining to taxable narcotics only when manufactured, sold, distributed, given away, dispensed, or possessed as a medicine. A manufacturer may produce and sell as exempt only preparations readily capable of use for claimed medicinal purposes, and sales thereof, if not to consumers, shall be made only to persons registered in Class V. Sales made to consumers, either by manufacturers or dealers shall be made only in such quantities and with such frequency to the same purchaser as will restrict their use to the medicinal purpose for which intended.

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Art. 183. *Dispositions to dealers.*—Orders for exempt preparations except where sold to a registrant in Class VI are not required to be on any particular forms, but an order from a dealer shall not be honored by a manufacturer or other dealer unless it bears the registry number of the dealer giving the order.

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Art. 185. *Records required.*—Every manufacturer, producer, compounder, or vendor (including dispensing physi-

cians), of exempt preparations shall record all sales, exchanges, gifts, or other dispositions, the entries to be made at the time of delivery. Separate records shall be kept of dispositions to registrants and of dispositions to consumers. The record of dispositions to registrants shall how the name, address, and registry number of the registrant to whom disposed, the name and quantity of the preparation, and the date upon which delivery to the registrant, his agent or a carrier is made. The record of dispositions to consumers shall show the name of the recipient, his address, the name and quantity of the preparation, and the date of delivery.

Art. 201. *Records open to inspection.*—Any officer, agent, or employee of the Treasury Department * * * authorized to enforce the act, * * * shall have authority to examine the books, papers, and records kept pursuant to these regulations, and may require the production thereof.

All order forms, duplicate forms, prescription records, returns, and inventories required under the act or these regulations to be kept on file shall be kept so that they can be readily inspected.

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